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PATENT APPLICATION

ATTORNEY DOCKET NO. 200309423-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Kemal GULER

Confirmation No.: 3497

Application No.: 10/757,323

Examiner: Clifford MADAMBA

Filing Date: January 14, 2004

Group Art Unit: 3696

Title: **SYSTEM AND METHOD FOR COMPARING RESULTS OF MULTIPLE LOT AUCTIONS USING
DIFFERENT SEQUENCING RULES**

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on November 17, 2008.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,

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PATENT

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|---------------------|--|--------------------------|------------------|
| Inventor(s): | Kemal Guler | Confirmation No.: | 3497 |
| Serial No.: | 10/757,323 | Examiner: | Clifford Madamba |
| Filed: | January14, 2004 | Group Art Unit: | 3696 |
| Title: | SYSTEM AND METHOD FOR COMPARING RESULTS OF MULTIPLE LOT AUCTIONS USING DIFFERENT SEQUENCING RULES | | |

MAIL STOP APPEAL BRIEF - PATENTS

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REPLY BRIEF - PATENTS

Sir:

This is a Reply Brief in response to the Examiner's Answer mailed November 17, 2008.

Many of the remarks presented below are in response to the Examiner's arguments starting on page 14 of the Examiner's Answer.

A. Pinker fails to disclose using different sequencing rules to simulate an auction

On pages 15-17 of the Examiner's Answer, the Examiner reproduces multiple paragraphs of Pinker including page 2, paragraph 2, page 5, paragraphs 1-3, page 6, paragraph 1, page 9, paragraphs 2-3, and page 10, paragraph 1. After reproducing these paragraphs, the Examiner then attempts to rely on these paragraphs as evidence of a teaching in Pinker of different sequencing rules. In particular, on page 17 of the Examiner's Answer, the Examiner states the following:

From the above disclosure, it is apparent that Pinker is directed towards researching the values of auction parameters conducted through numerous past auctions in order to maximize profit in a sequential auction transaction. It is obvious that based on past sequential auctions researched, that different sequential rules or patterns are observed. After all, if only one sequential rule was constantly being followed throughout the research process, then there would be no need at all to determine optimal parameters of sequences of auctions as directed by Pinker since the results would be unchanging. It is also unlikely that past auctions observed from different auctioneers through time would all be following or utilizing a constant auction sequence rule or pattern. It is thus evident that different or "multiple" auction sequence rules or patterns are disclosed by the cited reference. The limitation above as written, does not differentiate from the disclosure described above and is therefore interpreted broadly. The argued features of "simulating the multiple lot auction using a different sequencing rule until bidding on all lots is closed", as recited by claim 1, and argued by Appellant, is thus expressly taught and/or disclosed by Pinker. As such, the rejection with respect to claims 1-2 with regard to Pinker should be maintained accordingly.

Clearly, the Examiner is stretching the disclosure of Pinker to include teachings that simply are not explicitly or inherently disclosed in Pinker. The Examiner states, "It is obvious that based on past sequential auctions researched, that different sequential rules are observed. After all, if only one sequential rule was followed ..., then there would be no need at all to determine optimal parameters of sequences of auctions ... since the results would be unchanging." The Examiner's statement asserting that it would have been obvious to observe different sequential rules in Pinker is interpreted by the Applicants to be an admission that Pinker fails to explicitly teach or suggest this feature. If there is an explicit teaching of two different

sequencing rules in Pinker as stated by the Examiner, then it is unclear why the Examiner's Answer cites 8 different paragraphs of Pinker and then states it would have been obvious to include this feature in Pinker. Furthermore, each and every claimed feature must be disclosed by the prior art cited in the 103 rejection to establish a *prima facie* case of obviousness. Thus, simply stating that it would have been obvious to include the claimed feature in the prior art without the prior art actually disclosing the claimed feature is a failure to establish a *prima facie* case of obviousness.

As described above, the Examiner also states, "After all, if only one sequential rule was followed ..., then there would be no need at all to determine optimal parameters of sequences of auctions ... since the results would be unchanging." As described in the first paragraph and the last paragraph reproduced on page 16 of the Examiner's Answer and as described in the first paragraph of page 10 of Pinker, Pinker discloses determining the optimal number of auctions and the optimal number of units to be offered in each auction. Thus, the parameters that Pinker is trying to optimize are the number of auctions and the number of units to be offered in each auction. Also, the results of the auctions change as these parameters change, and these parameters are modified to manage the tradeoffs and benefits resulting from changing these parameters. See page 4, paragraph 2 of Pinker, which discloses lot sizes and the number of auctions are varied to manage the tradeoffs of varying each parameter effectively.

In the paragraph from the Examiner's Answer reproduced above, the Examiner states, "It is also unlikely that past auctions observed from different auctioneers through time would be

following or utilizing a constant auction sequence rule or pattern.” The Examiner makes a conclusory statement without providing any support or reasoning as to why it would be unlikely. Furthermore, in the context of Pinker, which is trying to optimize the number of auctions and the number of units to be offered in each auction of a sequence of auctions, Pinker would only observe past sequential auctions (*i.e.*, auctions that only use a single sequencing rule, which is the sequential auction) where these parameters are varied.

Accordingly, Pinker fails to teach or suggest using different sequencing rules. Instead, Pinker only discloses using a single sequencing rule, which is multiple, separate, sequential auctions wherein the number of auctions and the number of units to be offered in each auction. See page 2, paragraph 1 of Pinker. Thus, Pinker fails to teach or suggest simulating using two different sequencing rules.

B. Not obvious to one of ordinary skill in the art to modify Pinker to simulate different sequencing rules

It would not have been obvious to one of ordinary skill in the art to modify Pinker to simulate different sequencing rules. The sophisticated modeling disclosed on pages 9-13 of Pinker only considers varying the number of auctions and the number of units offered in each auction. It would not be obvious to change the sophisticated modeling of Pinker to account for different sequencing rules. As stated in Wurman, controlling timing seems relatively minor but can have a tremendous impact on the auction. It is unclear how the modeling of Pinker can be modified to account for the tremendous impact of using different timing rules for an auction.

Wurman certainly does not disclose how using different sequencing rules can be modeled, especially in conjunction with the sophisticated modeling of Pinker that considers different number of auctions and units per auction. For at least these reasons, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pinker to include different sequencing rules.

PATENT

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Conclusion

For at least the reasons given above, the rejection of claims 1-22 should be reversed and these claims allowed.

Please grant any required extensions of time and charge any fees due in connection with this Reply Brief to deposit account no. 08-2025.

Respectfully submitted,

Dated: January 14, 2009

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